REMARKS

Claims 1-35 have been rejected under 35 U.S.C. §103(a) as being unpatentable over "New Tools Make It Easier to Find the Lowest Price" by Tedeschi ("Tedeschi") in view of U.S. Patent No. 6,598,026 to Ojha et al. ("Ojha").

Claims 1-35 remain pending.

Rejection of Claims 1-35 under 35 U.S.C. Section 103(a)

With respect to independent claim 1, the Office Action states that Tedeschi discloses all of the recited elements except providing a dynamic price shopping mode where the user initiates an auction in real-time for generating bids for the selected product from different online stores. The Office Action further states that Ojha discloses providing a dynamic price shopping mode where the user initiates an auction in real-time for generating bids for the selected product from different online stores, and that it would have been obvious to modify Tedeschi to incorporate the teachings of Ojha for the purpose of allowing the user to obtain a better price of the selected product via the auction, because auction is a special mode of purchase in which the user can submit bids in order to purchase a product with a better price.

With respect to independent claims 24 and 32, the Office Action states that Tedeschi discloses all of the recited elements except that Tedeschi discloses preparing a purchase request and purchase process at different online stores instead of a bid request and bid process at different online stores. The Office Action further states that Ojha discloses preparing a bid request and bid process at different online stores and that it would have been obvious to modify Tedeschi to incorporate the teachings of Ojha for the purpose of allowing the user to obtain a better price for the selected product via the auction, because auction is a special mode of purchase in which the user can submit bids in order to purchase a product with a better price.

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Tedeschi discusses e-commerce price comparison web sites. Tedeschi superficially explains that there are browser-based product search agents and price comparison web sites. The browser-based product search agents scan various shopping web sites and retrieve purchasing data for a particular product and display the purchasing data for the particular product to a shopper. The price comparison sites are independent web sites that compile retail store product data and provide a shopper with a list retail stores from which a particular product can be purchased. The shopper must then navigate to the particular retail store's web site. Unlike Applicant's invention, Tedeschi mentions nothing about e-commerce bidding or auctions, or the like, or a need for such a function to be incorporated into the existing e-commerce retail shopping or price comparison environment.

Ojha teaches a method and apparatus for brokering transactions. The method and apparatus facilitate a transaction between a buyer and one of a plurality of sellers via the Internet. Product information relating to a plurality of products meeting product criteria specified by the buyer is presented via the Internet. One of the plurality of sellers is associated with each of the products. A first bid from the buyer for a first one of the plurality of products is made available via the Internet to a first seller associated with the first product. A first bid response is presented via the Internet to the buyer according to response criteria specified by the seller. The entire auction/bidding process is executed through a common transaction site (col. 9, lines 18-20). A buyer may only shop for (solicit bids for) products that are listed in a proprietary database (col. 9, line 37-41). If the desired product is not listed in the proprietary database, the buyer cannot use the system taught by Ojha to make a purchase. Ojha mentions nothing about e-commerce retail shopping or price comparison web sites, or the like. Further, Ojha mentions nothing about

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a need for integrating the disclosed bidding/auction system with an e-commerce retail shopping or price comparison environment.

In contrast, Applicant's invention recites an integrated e-commerce retail shopping and bidding method. Applicant's invention enables a shopper to shop at any online store for a particular product, while also soliciting bids for a better price of the particular product. While the shopper shops at any online store, a bidding agent residing on a server associated with the shopper's Internet Service Provider (ISP) tracks and retrieves product information related to the shoppers product of interest. The shopper has the option of purchasing the particular product at any online store of his choice, or soliciting bids for prices from a variety of additional retail stores.

Unlike the systems disclosed in Tedeschi, Applicant's system does not necessarily limit the shopper to the prices for a particular product found on a particular retail web site or a price comparison website. Applicant's system provides the shopper with the opportunity to solicit bids from retailers that may be lower than prices listed on various web sites.

Unlike the method and apparatus disclosed in Ojha, Applicant's method enables a shopper to shop any retail site or price comparison site that the shopper desires while also soliciting bids for lower prices. The shopper is thus not limited to using the bidding feature. Further, the shopper is not limited to products listed in a proprietary database. The shopper can shop for products wherever he wishes.

The Examiner states that it would have been obvious to modify Tedeschi to incorporate the teachings of Ojha for the purpose of allowing the user to obtain a better price for the selected product via the auction, because auction is a special mode of purchase in which the user can submit bids in order to purchase a product with a better price. The Examiner cannot base

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obviousness upon what a person skilled in the art could, or might, try but rather must consider what the prior art would have led a person skilled in the art to do. In re Antonie, 559 F.2d 618 195 USPQ 6 (CCPA, 1977). To prevent the use of hindsight based on the invention to defeat patentability of the invention, the Examiner must show a motivation to combine the references that create the case of obviousness. In re Rouffet, 47 USPQ2d 1453 (Fed. Cir., July 15, 1998). The conclusion asserted by the Examiner represents an impermissible use of hindsight gained from the present invention.

In view of the foregoing, it is respectfully submitted that, with respect to independent claim 1, Tedeschi and Ojha, whether taken alone or in combination, do not teach or suggest the subject matter recited in claim 1 as each of these references fails at least to teach or suggest a computer-implemented method of doing business on a network. The method includes providing a user with access to a first online store through one or more networks and via an on-screen display, the first online store having one or more products, each with a product description and a price, the product description and price being provided to the user via the on-screen display. The method further includes receiving one or more selection requests for the one or more products from the user via the on-screen display, wherein one of the products is a selected product. The method still further includes providing a fixed shopping mode, via the on-screen display, where the user conducts a product purchase transaction for said selected product via the first online store. The method yet further includes providing a dynamic price shopping mode, via the on-screen display, where the user initiates an auction in real-time for generating bids for the selected product from different online stores, other than the first online store, wherein the on-screen display allows the user to begin shopping in the fixed shopping mode, then initiate the auction in the dynamic shopping mode, then elect to return to shopping in the fixed shopping mode without being obligated to accept any of the bids provided in the dynamic shopping mode, but having a choice to select any of the bids provided in the dynamic shopping mode.

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Independent claim 24 and 32 recite similar features as claim 1, and therefore are patentably distinct over Tedeschi and Ojha for at least the reasons discussed in connection with claim 1.

Claims 2-23, 25-31, and 33-35, which depend directly or indirectly from the independent claims 1, 24, and 32 incorporate all of the limitations of the corresponding independent claim and are therefore patentably distinct over Tedeschi and Ojha for at least those reasons provided for claims 1, 24, and 32.

Conclusion

In view of the foregoing, applicants respectfully requests reconsideration, withdrawal of all rejections, and allowance of all pending claims in due course.

Respectfully submitted,

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